IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1745 OF 2006

M/s.Bingo & Associates ...Petitioner

vs.

Ravindra Dattatraya Kadam & Ors. ...Respondents

Mr.P.R.Arjunwadkar for the Petitioner
Mr.S.R.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 26,2006.

P.C.:

1. Heard Shri Arjunwadkar appearing for the Petitioner. The Petitioner is the original complainant in a complaint under section 148 of the Maharashtra Co-operative Societies Act, 1960. The first to sixth Respondents herein are the accused in the private complaint. The accused persons were at the relevant time members of the managing committee of a cooperative housing society duly registered under the Maharashtra Cooperative Housing Societies Act, 1960. The case made out in the complaint is that the order passed by the Deputy Registrar of the Cooperative Societies on 23rd November 1998 granting registration of the society was stayed by the Hon'ble Minister of the Department of Cooperation and notwithstanding the knowledge about the order of stay, accused persons continued to act as the members of the managing committee of the registered society. The learned Judicial Magistrate First Class issued process against the accused under section 145 and 146 (J) of the said Act. In a Revision Application preferred by the accused for challenging the order

issuing process, the Revisional Court has interfered and has set aside the order issuing process.

2. Shri Arjunwadkar for the Petitioner submitted that even after the order was passed by the Hon'ble Minister granting interim relief, the first six Respondents continued to act as the members of the managing committee of the housing society. He submitted that the sanction was granted for prosecuting the Respondents after hearing the Respondents and therefore the Revisional Court ought not to have interfered with the order issuing process. He submitted that the Petitioner ought to have been given an opportunity to establish his case by leading evidence as the complaint, if read as a whole, made out a case for commission of the offences.

3. I have considered the submissions. The entire foundation of the private complaint filed by the Petitioner is the order of stay allegedly passed by the Hon'ble Minister. On 23rd November 1998 the Deputy Registrar of Cooperative Housing Societies ordered the registration of the society. A statutory Appeal preferred by the Petitioner against the said order was dismissed on 10th September 1999. It appears that in a Revision Application preferred by the Petitioner, order of ad-interim relief of status quo was passed by the Minister on 11th November 1999. Admittedly, ad-interim order has been vacated as the Revision Application was dismissed on 19th March 2002.

4. The society came into existence on 23rd November 1998 when the order of registration was passed by the Deputy Registrar. Subsequent order of status quo passed by the Hon'ble Minister will not wipe out the existence of the registered society. Therefore, notwithstanding the said order, it is obvious that the concerned Respondents were entitled to act as office bearers/members of the managing committee of the society. Hence, no fault can be found with the order passed by the Sessions Court in a revision. No case is made out for interference. Writ Petition is rejected.

JUDGE